



## **Agricultural Marketing Service**

### **7 CFR Part 959 and 980**

**[Doc. No. AMS-SC-21-0003; SC21-959-2]**

### **Onions Grown in South Texas and Imported Onions; Termination of Marketing Order 959 and Change in Import Requirements; Withdrawal**

**AGENCY:** Agricultural Marketing Service, Department of Agriculture (USDA).

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The Agricultural Marketing Service (AMS) is withdrawing the proposed rule to terminate the Federal marketing order regulating the handling of onions grown in South Texas and the rules and regulations issued thereunder, and the proposed corresponding change to the onion import regulation. After reviewing the results of a second producer referendum and considering the comments received on the proposed rule, the proposed rule is being withdrawn.

**DATES:** The proposed rule published August 5, 2021 at 86 FR 42748 and re-opened on November 8, 2021 at 86 FR 61718, is withdrawn as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Abigail Maharaj, Marketing Specialist, or Christian D. Nissen, Branch Chief, Southeast Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324-3375, Fax: (863) 291-8614, or Email: [Abigail.Maharaj@usda.gov](mailto:Abigail.Maharaj@usda.gov) or [Christian.Nissen@usda.gov](mailto:Christian.Nissen@usda.gov).

**SUPPLEMENTARY INFORMATION:** This withdrawal is issued under Marketing Order No. 959, as amended (7 CFR part 959), regulating the handling of onions grown in South Texas. Part 959 (referred to as the “Order”) is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred

to as the "Act." The South Texas Onion Committee (Committee) locally administers the Order and is comprised of producers and handlers operating within the production area.

The withdrawal is also issued under section 8e of the Act (7 U.S.C. 608e-1), which provides whenever certain specified commodities, including onions, are regulated under a Federal marketing order, imports of those commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the same domestically produced commodities.

This action withdraws a proposed rule published in the **Federal Register** on August 5, 2021 (86 FR 42748), seeking public input on terminating the Order and the rules and regulations issued thereunder and making a corresponding change in the onion import requirements. AMS reopened the public comment period for the proposed rule for an additional 30 days in a notice published in the **Federal Register** on November 8, 2021 (86 FR 61718). The proposed termination was based on the results of a continuance referendum conducted by USDA from September 21 to October 13, 2020, in which producers failed to support the continuation of the Order. Section 959.84(d) of the Order provides that USDA shall conduct a referendum within six years after the establishment of the Order and every sixth year thereafter to ascertain whether continuance is favored by producers. The section further provides that USDA would consider termination of the Order if fewer than two-thirds of the producers voting in the referendum, and producers of less than two-thirds of the volume of onions represented in the referendum favor continuance.

During both comment periods, AMS received a combined total of 90 comments. All the comments may be viewed on the internet at <https://www.regulations.gov>. Of the comments received, 5 comments indicated support for termination, with 85 comments indicating opposition to termination. Thirty-three of all comments were from the production area, with 31 opposing termination of the Order. After reviewing and

considering all comments received during both comment periods, the Secretary of Agriculture determined conducting a second referendum as appropriate to better assess the level of producer support for the continuation of the Order. AMS conducted the second referendum September 1 through October 3, 2022, and continuance of the Order received the support of 78.6 percent of South Texas onion producers voting in the referendum. Continuance was favored by 73.7 percent of the volume voted in the referendum.

After reviewing all relevant materials, AMS determined the proposed rule to terminate the Order should be withdrawn. Accordingly, the proposed rule to terminate the Order that was published in the **Federal Register** on August 5, 2021 is hereby withdrawn. In addition, enforcement of the obligation to pay assessments at the rate of \$0.05 per 50-pound equivalent, which was administratively suspended on March 15, 2021, is re-instated for the 2022-23 fiscal period and subsequent fiscal periods, as published in the **Federal Register** on June 30, 2020 (85 FR 39047).

### **List of Subjects**

#### **7 CFR Part 959**

Marketing agreements, Onions, Reporting and recordkeeping requirements.

#### **7 CFR Part 980**

Food grades and standards, Imports, Marketing agreements, Onions, Potatoes, Tomatoes.

Authority: 7 U.S.C. 601-674.

**Erin Morris,**

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